

CITY COMMISSION MINUTES

April 6, 2010

7:00p.m.

The regular meeting of the Junction City City Commission was held on Tuesday, April 6, 2010 with Mayor Terry Heldstab presiding.

The following members of the Commission were present: Terry Heldstab, Scott Johnson, Mike Rhodes, Ken Talley, and Jack Taylor. Staff present was: City Manager Gerry Vernon, Interim City Manager Mike Guinn, City Attorney Catherine Logan, and City Clerk Tyler Ficken.

GENERAL DISCUSSION

Mary Somerack of 424 W. 18th stated that she lives in a townhome complex and has two private parking spots at the complex. The spots are too small. She received a parking ticket at her residence for taking two spots, but both belong to her. She stated that she parks in two spaces to be sure she can back out of her spot. She stated that a neighbor got a ticket for replacing a tire. Another neighbor who has a walker and uses a wheelchair has a difficult time getting out of her vehicle. She stated that residents should not get tickets outside their home on private parking lots. Commissioner Johnson asked what response she received from her landlord. She stated that the landlord said it was private land. Mary stated that she thinks this is bad politics for her to receive a \$55 ticket for this. She stated that she is required to maintain her own parking spots, and she believes this is a desperate act of a broke City. Commissioner Johnson stated that there should be more places to park given the amount in incentives given to the developer. Mayor Heldstab stated this is a difficult situation and people needs to be treated the same.

Mark Edwards of 439 W. 1st stated that he expects the City to work with him on connecting Nicole Lane to US-77. He stated that he would like to schedule a meeting with KDOT. He stated that the letter from KDOT is not sufficient to stop this process. He wants to work to make sure the project goes forward. Commissioner Johnson stated that he supports this going forward. Mayor Heldstab stated that funding needs to be secured to move forward. Commissioner Johnson stated that the more connections to US-77 the better. Mark Edwards stated that he has experienced push back from the City staff on this issue. City Manager Vernon stated that his understanding is that the projects were never withdrew from KDOT, but that the process moving forward stopped. Mark Edwards stated that US-77 runs from Canada to Mexico with stops and intersections all along the way. City Manager Vernon stated that the next step is to move forward preferably without lawyers. Commissioner Johnson stated that he agrees with Mark Edwards; he stated that there should be no further study; the road needs to be finished. Commissioner Rhodes stated that he believes there is a conflict of interest for Commissioner Johnson on this project. Hargreaves works for Commissioner Johnson, and Commissioner Johnson would benefit from increased property values; Commissioner Rhodes stated that it

would constitute a conflict of interest. Commissioner Johnson stated that he doesn't believe his credibility is under question but he can find plenty of instances where Commissioner Rhodes' is. Mayor Heldstab told the Commissioners not to get personal. Commissioner Johnson stated the Mrs. Hargreaves works for him and that they sell very little property there; she has only worked for him for a couple months. Commissioner Johnson stated that it is personal. Commissioner Johnson questions why the road would be built if it was not going to be completed. City Manager Vernon stated that he would like to meet with developers and move forward with information to legislators. Mayor Heldstab asked the City staff to keep Mr. Edwards informed.

Karen Mott showed to the City Commission that she purchased a muzzle for her dog so that she can bring her animal to the Municipal Building for shelter during a severe storm. Commissioner Johnson stated that he does not have a problem with her bringing her pet to the Municipal Building. Commissioner Taylor asked if the City would actually turn people away with pets in the event of a severe storm. City Clerk Ficken stated that he had a discussion with Geary County emergency Services Director Berges regarding this issue; Mr. Berges contacted swap shop to advertise for someone willing to provide Mrs. Mott access to their home in the event of a severe storm. Karen Mott asked the Commission if she could bring her pet to the municipal building. Mayor Heldstab stated that pets are not allowed to come to the Municipal Building during a severe storm at this time. Commissioner Johnson stated that he cannot believe this. Commissioner Johnson stated that there are monkeys in the basement doing the City accounting.

CONSENT AGENDA

Approval of the **March 23, 2010** City Commission Meeting Minutes. Commissioner Rhodes moved seconded by Commissioner Taylor to approve the consent agenda as presented. Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: None. Motion carried.

The consideration and approval of **Appropriation Ordinance** dated Mar. 18 to Mar. 31, 2010 in the amount of \$1,468,532.62. Commissioner Rhodes moved seconded by Commissioner Taylor to approve the consent agenda as presented. Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: None. Motion carried.

The consideration and approval to call for a **Special Meeting** of the City Commission on April 13, 2010 at 7:00PM to discuss upcoming bond issues. Commissioner Rhodes moved seconded by Commissioner Taylor to approve the consent agenda as presented. Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: None. Motion carried.

SPECIAL PRESENTATIONS

A **bond finance update** from the City finance advisors at George K. Baum Company. David Arteberry provided a brief introduction to Varney report; noticed underage when working on the size of bond issue, and realized the need for reconciliation on project costs. Varney & Assoc. has completed report. Matt Schwartz will discuss report. David Arteberry will report on impact on future bond issue. Matt Schwartz Reconciled two areas: capital projects funds on funds available, and those going to permanent financing. To start, report is not a report of detailed engineering files. It does not address the correctness of special assessments, and it does not include an audit of project files. It is an identification of costs and what was submitted for revenues and expenditures. Report indicates cost underage and overage in fund. Covers three areas of interest (1) projects in 2010 bond issue, (2) projects from 2005 to 2009 reconciliation, and (3) other projects in capital improvements fund involving KDOT revolving loan fund and Exhibit D projects. Commissioner Johnson asked whether the funds have been paid at Olivia Farms. Matt Schwartz stated that the money has not been paid out but will be in the future. Arteberry stated that the \$700,000 for sidewalks would be paid back by Special Assessments; sidewalks were included in special assessments. Commissioner Johnson stated that Olivia Farms should not get these funds because they owe taxes. Commissioner Johnson said it is not fair. Matt Schwartz stated that costs need to be recorded and matched with costs, and then explained how they are paid. Commissioner Johnson stated that the entire report is a question. Varney & Associates in the past did not reconcile bond issues as part of a regular audit. Matt Schwartz stated that his job was to match expenditures with where the money was coming from. Commissioner Taylor asked how the Commission can get answers to these questions. Katie Logan stated that questions are beyond the scope of this report. Commissioner Johnson asked if moving money from fund to fund is a normal accounting practice. Matt Schwartz stated that fund 88 was to be replenished with outside funding sources. Arteberry stated that funding from general fund and other sources such as KDOT funding from fund 22 should have reimbursed fund 88. Commissioner Johnson stated that he heard projects must be complete before bonds can be issued, so that you know what you are selling bonds on; which is it? City Attorney Logan stated that it is not the completion, but the calculation of the cost.

Report from David Arteberry:

Arteberry stated that projects do not need to be completed for projects to be bonded. He stated that the report make some things obvious; costs were not calculated correctly; net of \$880,000.00 in costs that were understated. A number of older projects were not sufficiently funded. Capital project fund accounting was inadequate. Moving forward the Commission should immediately address the upcoming bond issue. Moving forward, both short and long term financial planning in needed. David Arteberry's company considered bonding now versus bonding at a later date. Opinion is to bond now because of debt limit issues, renewing the notes will increase interest rate payments, and there would be work duplication on temporary notes as the process is still required. The Varney analysis was to clear up the underage and overage issues. The City has received payments from KDOT which is being held for bond payments. The City can issue bonds on overage payments and free up cash.

Long term solution is to refinance bonds to provide for September 1 payment. Expenditures would be reduced for this year. Good for two reasons (1) special assessments are increasing in delinquency; it would provide cushion in the bond and interest fund. Bond payments are being made with funds from water and general funds. It would create a larger cash cushion. The City can finalize bonds, projects, and provide liquidity moving forward. A bond issue is going to be difficult now because of recent revelations. The City bond rating will likely go down. Bond insurance becomes increasingly important. Long term, a finance director should be hired; much can be accomplished by August. The City has gone years without a property tax increase; additional revenues need to be generated; should consider a sales tax to reduce the need to increase property taxes. Commissioner Johnson stated that property taxes have gone up. Commissioner Taylor asked the cost of insurance. Arteberry stated a cost of \$200,000 to \$300,000. It will result in a cost saving over the long run. Commissioner Taylor stated that he thought stormwater revenue was to only be spent on new stormwater projects. Commissioner Johnson asked if City will be required to pay interest in worthless ravine at Olivia Farms for the next 20 years. Arteberry stated that when or if the property goes to tax sale, the property can be sold to recoup funding on the project. Commissioner Johnson stated that someone would not take the ravine if it was given for free. Katie stated that she would be addressing that issue later in the evening. Commissioner Taylor asked about the \$731,000 that was not set aside. Funds were spent on the incorrect projects. Commissioner Taylor asked if this was fraudulent. Katie stated that fund 88 was not segregated and fund 88 was larger than just bond proceeds. Commissioner Taylor asked who determines what is legal and illegal on the movement of these funds. Katie Logan stated that it can be looked into if the Commission directs that to happen. Commissioner Taylor stated that he is not seeing how things are tied together; it seems like a house of cards. Commissioner Talley asked about compliance with the statutory debt limit. David Arteberry stated that after the bond issue, the City would be \$1.5 million under the statutory limit; he stated that the City is prepared to remain under the debt limit. David Arteberry stated that even with stability, the City will not have much borrowing capacity in the future. Commissioner Johnson asked if the bond issuance costs will be going up. Arteberry stated that the insurance will go up, as well as legal and accounting costs; but is a small amount with respect to the bond as a whole. Commissioner Taylor asked David Arteberry if he was optimistic that the bonds would sell. David Arteberry stated that in conversations with his trading desk, he was told that the bonds could be sold even without insurance; the rate will not be as good as in the past. David Arteberry stated that he would refrain from providing an interest rate estimate since the question of insurance has not been answered. Commissioner Johnson asked if there are a number of steps that the Commission can take to increase confidence that past practices will not continue. David Arteberry stated that a CFO will help. Commissioner Johnson asked about water meters that were given away by the City; Commissioner Taylor asked if there is any recourse the City can take. Katie stated that it would depend upon the circumstances; it would be a case by case issue. Commissioner Taylor asked if there was not a development agreement and water meters were given away, what would be the course of action. Katie stated that she would need to look into that. Mark Edwards spoke

from the galley and asked whether special assessments would again have public hearings. Katie Logan stated that yes, public hearings will be held again. David Arteberry would like to discuss at April 13, 2010 special meeting to begin the bond process. Commissioner Johnson asked if projects need to be completed before they are bonded and whether this would subject the City to a Lawsuit. Joe Norton stated that completion costs need to be determined, but the project does not need to be complete to be bonded. Joe Norton stated that there are three things the City needs to do; (1) assessment ordinance on technical issues by the City Attorney, (2) inaccurate special assessments will be fixed through a process provided by state statute, (3) decide who will pay which portions. Joe Norton stated that it needs to be completed this summer. Commissioner Johnson stated that there are problems when one development costs much more than another. Joe Norton stated that the hiring of a CFO will help in the process of having correct assessments in the future. Mark Edwards spoke from the gallery and stated that his reading of the statute was that the projects need to be completed before they are bonded. Joe Norton stated that he would be happy to speak with Mr. Edwards in the hallway about the statute to reconcile differences. Joe Norton stated that he is confident in his position since he has worked on these issues for 35 years.

Commissioner Taylor asked staff if the City has made payments to KONZA Construction. Commissioner Guinn stated that the funds from KDOT are being held for bond payment. Assistant City Manager Guinn stated that the City no longer owes KONZA Construction \$700,000.00. Assistant City Manager Guinn stated that the City recently made a payment of \$100,000.00; but did not have the number on payment due. City Manager Vernon stated that part of the advantage of the refunding of payment will be to provide the City with liquidity needed to meet obligations. Commissioner Taylor asked whether holding onto the money satisfies the bond council. Joe Norton stated that the funds from KDOT should not be spent because it is needs to pay the notes.

Mayor Heldstab to make special presentation in appreciation of Lady Troopers. Mayor Heldstab stated that this item will be presented at the April 20, 2010 City Commission Meeting.

UNFINISHED BUSINESS

The consideration and approval of Ordinance G-1065 amending the City Code by creating Special Events Regulations for the City. (Final Reading) David Yearout Presenting. Commissioner Talley moved, seconded by Commissioner Johnson to approve G-1065 on final reading. Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: None. Motion carried.

NEW BUSINESS

The consideration and approval of request to give the property located at 836 W. 12th to the Petersons with the stipulation that they pay in full for the survey and replatting. Assistant City Manager Guinn Presenting. Assistant City Manager

Guinn stated that records show that the City owns lot 836 W. 12th, which sits under the Petersons' home. The reason for this was research by city staff, and no clear conclusion as to why this is could be found. Assistant City Manager Guinn added that the Petersons' would pay the cost of replatting. Commissioner Johnson moved, seconded by Commissioner Taylor to give the property located at 836 W. 12th to the Petersons with the stipulation that they pay in full for the survey and replatting. Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: none. Motion carried.

The consideration and approval to award Construction engineering to Kaw Valley Engineering, Inc. on the 6th and Franklin Traffic Signal project; project cost estimate is \$266,187.50, the City share of this cost is \$116,187.50. Assistant City Manager Guinn Presenting. Assistant City Manager Guinn stated that bids were requested from multiple engineering companies, and staff requests approval of the KAW Valley bid. Commissioner Taylor questioned whether the City has the funds for this. Assistant City Manager Guinn stated that funding would come from the KDOT revolving loan fund. Commissioner Talley stated that paying back these loans is going to become increasingly difficult. Mayor Heldstab asked whether the project could be pushed into the future. Assistant City Manager Guinn stated that the funding may not be available in the future. Commissioner Johnson stated that he thinks there could simply be a 4-way stop placed at the intersection. Assistant City Manager Guinn stated that a 4-way stop would be a problem because of the four lanes East and West. Commissioner Johnson stated that the City could get funding in the future. Assistant City Manager Guinn stated that lights at the intersection would greatly improve safety. Chief Brown confirmed that the intersection is dangerous. Commissioner Taylor stated that he would like to see the City wait to fund the project. Mayor Heldstab asked for Mike Guinn to follow up at the next meeting with information on whether the project can be moved into the future. Commissioner Rhodes moved, seconded by Commissioner Taylor to approve Kaw Valley Engineering as construction engineering firm on the 6th and Franklin Traffic Signal project with the understanding that the project may not go forward depending on cost estimates. Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: none. Motion carried.

The consideration and approval of Memorandum of Understanding between the City of Junction City and the Junction City Chamber of Commerce for access to the City's computer network; cost savings will be approximately \$2,500.00. IS Director Germann Presenting. IS Director Germann stated that the funds can be saved by receiving a server from the Chamber of Commerce in exchange for access to the City network. The chamber would also receive a domain, antivirus, and updates from the City. Commissioner Taylor asked how many hours it would take to complete the change. IS Director Germann stated that it would take approximately 5 hours. Commissioner Taylor asked if the City would have priority status with regard to the network. IS Director stated yes, and added that the chamber would be responsible for their hardware repairs. Commissioner Taylor moved, seconded by Commissioner Johnson to approve Memorandum of Understanding between the City of Junction City and the Junction City

Chamber of Commerce for access to the City's computer network. Ayes: Heldstab, Johnson, Rhodes, Taylor. Abstention: Talley. Nays: none. Motion carried.

The consideration and approval to award bid from S.M. Hanson Music to upgrade the emergency Operations Center in order to provide multiple feeds of information to the center at a cost of \$14,345.00 to be paid for from the 2009 JAG grant. Police Chief Brown Presenting. Chief Brown stated that the upgrade would include another monitor in the Police Department training room for use during emergency situations. Commissioner Taylor asked how long it would be before the upgrade is completed. Chief Brown stated that the installation would take a week, and begin in a short period after approval. Commissioner Talley asked Chief Brown if single emergency sirens can be run within the City. Chief Brown stated that the all emergency sirens run at once. Commissioner Talley moved, seconded by Commissioner Taylor to approve award of bid to S.M. Hanson Music to upgrade the emergency Operations Center in order to provide multiple feeds of information to the center at a cost of \$14,345.00 to be paid for from the 2009 JAG grant. Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: none. Motion carried.

The consideration and approval of R-2598 setting fees for applicants for approval of day care facilities under the Day Care Code. David Yearout Presenting. David Yearout stated that the fee would be \$35 for home operations, and \$100 for others. Commissioner Talley asked who conducts the approval process. David Yearout stated that City Codes Department, Fire Department, and the Health Department would take part in the approval process. Commissioner Rhodes moved, seconded by Commissioner Taylor to approve R-2598. Ayes: Heldstab, Johnson, Rhodes, Taylor. Nays: Talley. Motion carried.

The consideration and approval of R-2599 setting fees for applications for special events. David Yearout Presenting. David Yearout stated that the fees in the Resolution are intended to offset staff time. Mayor Heldstab asked David Yearout to provide examples of events. Dave Yearout stated that examples of the (A)fee would include events such as promotional balloons and searchlights; events included under (B) would Christmas tree sales, and tent sales; item (C) would include events such as the lease to Price Gregory for pipeline construction. Commissioner Taylor asked if there would be waivers for fees. David Yearout stated that people would be treated equally under the Resolution. Commissioner Rhodes moved, seconded by Commissioner Johnson to approve R-2599. Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: None. Motion carried.

City Attorney further response to certain questions addressed to BKD. Katie Logan stated that she would answer legal questions with regard to the finding of the BKD report. Questions and answers are included in **Exhibit A**.

(1) Commissioner Taylor asked what would happen if the sidewalks at Olivia Farms are never built. Joe Norton stated that the amount in escrow would be used to retire the bonds. Commissioner Taylor asked who has oversight on whether that gets done. Joe Norton stated that it is the city's responsibility.

Commissioner Taylor asked is there is a timeframe requirement. Joe Norton stated that there is typically a three year period for tax purposes to spend bond proceeds. (4) Regarding the question of the City debt policy being repealed, Commissioner Johnson stated that the City stated that it would try to follow a policy but then ignored it. City Attorney Logan stated that the policy was voided by the Commission when it was not followed. (5) Commissioner Johnson asked who didn't pay property taxes at Village at Freedom Place. City Attorney Logan stated that she does not have the background, but that she will inquire with BKD. Commissioner Taylor asked whether the waiver of payment of property taxes requires a vote, or can the city Manager do this on his own. City attorney Logan stated that it would need to be approved by the City Commission. City attorney Logan stated that the BKD report provides that the item was included in an appropriation ordinance that was approved by the Commission. (6) Commissioner Johnson stated that items may be legal but that doesn't make them prudent. The lot in question is valued at \$33,000.00 with the County. The cost is shifted to the lot; there should have been public discussion. City Attorney Logan stated that there was a public hearing and a public presentation made to the Commission far beyond those made by other developers. Commissioner Taylor stated that the condition of the lot was not pointed out to the Commission. Commissioner Taylor stated that half-truths have been presented to the Commission all along; the Commission was told only what staff wanted them to hear. Commissioner Johnson stated that he would have liked to receive the information form the past City Manager; he worked for out of town developers and not the people who paid his salary. Commissioner Taylor asked whether Olivia Farms was allowed to be built in phases in the development agreement, or whether it was required to be built out. Joe Norton stated that the agreement was not phased because the petition was not presented in phases. City Attorney Logan stated that she would double check on the development agreement.

COMMISSIONER COMMENTS

Commissioner Johnson stated that the City needs to get information to the citizens on the Franklin School traffic issue. He mentioned that the Daily Union excluded his name from the paper. Commissioner Johnson stated that picking the new Mayor is important; he stated that the people who saw the problems coming need to get active.

Commissioner Taylor asked if there is yet a schedule for the budget process. City Manager Vernon stated that he attended a budget conference in Topeka that day; he stated that a schedule will be provided as soon as possible.

Commissioner Talley stated that he would also like to hear information in regard to Franklin school traffic issues. Assistant City Manager Guinn stated that he would be meeting with HWS on the Safe routes to School program the next day.

Mayor Heldstab thanked David, Roger, and Joe for their work on the bond issue.

STAFF COMMENTS

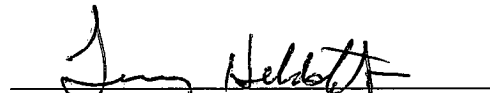
City Manager Vernon stated that a Mr. Dick Chesney would be working with the City on finance issues. City Manager Vernon stated that Mr. Chesney has a great deal of experience in finance; he has worked as a City Manager, and has worked with finance in Johnson County. City Manager Vernon stated that he believes Mr. Chesney will have great advice to give.

ADJOURNMENT

Commissioner Talley moved, seconded by Commissioner Johnson to adjourn at 9:40 PM Ayes: Heldstab, Johnson, Rhodes, Talley, Taylor. Nays: None. Motion Carried.

APPROVED AND ACCEPTED THIS 20th DAY OF APRIL 2010 AS THE OFFICIAL COPY OF THE JUNCTION CITY CITY COMMISSION MINUTES FOR APRIL 6, 2010.



Tyler Ficken, City Clerk

Terry Heldstab, Mayor

Exhibit A

1. What is the legal authority for City to purchase improvements from developer in the Olivia Farms and Sutter Woods and Sutter Highlands subdivisions?

The use of development agreements for purchase of improvements from developers was reviewed and approved by the City's Bond Counsel, Gilmore & Bell, when these development agreements were under consideration by the City, after review with the Kansas Attorney General's office, as permissible under the prior version of 12-6a02. I understand this has been done in Manhattan, as well as some smaller Kansas communities. In 2007, when other amendments were being proposed to 12-6a01 et seq. to authorize special obligation bonds, the AG suggested that the language authorizing the acquisition of improvements be clarified. 12-6a02 was amended at that time, to add the provisions underscored below, to be consistent with counsel and the AG's interpretation of that statute.

12-6a02 Same; special assessments; work or improvements authorized.

As a complete alternative to all other methods provided by law, the governing body of any city is hereby authorized to make, or cause to be made, municipal works or improvements which confer a special benefit upon property within a definable area of the city and may levy and collect special assessments upon property in the area deemed by the governing body to be benefited by such improvement for special benefits conferred upon such property by any such municipal work or improvement and to provide for the payment of all or any part of the cost of the work or improvement out of the proceeds of such special assessments as hereinafter provided. Such work or improvements may include the following without limitation because of enumeration:

(a) Acquisition of (1) property or interest in property when necessary for any of the purposes authorized by this act and (2) any improvement authorized to be constructed under this act.

2. What is the legal authority for funding of sidewalks and use of escrow in 12-6a01 financing of Olivia Farms.

KSA 12-6a02 expressly authorizes sidewalks to be funded. Per Gilmore & Bell, under 12-6a01 et seq. improvements not yet completed, but for which the cost has been determined, may be assessed and escrowed.

3. Why were the Opera House Bonds were issues without public vote?

The Opera House Bonds are Industrial Revenue Bonds, authorized under K.S.A. 12-1740 et seq which does not require a public vote. The tenant under the IRB lease is Spirit of '76. Under its home rule authority, the City made an economic development grant to Spirit of '76 to support the lease payments to be used to repay the bonds. No public vote is required for the City to exercise such home rule authority or for the issuance of general obligations bonds for this purpose.

4. Consequences of the City's failure to follow its own debt management policy relating to per capita debt.

There is no state law per capita debt requirement. By failing to follow or update the City's own internal policy, the policy was in effect repealed.

5. Legal authority of the City to refund \$63,599 in delinquent property taxes relating to Village at Freedom Place.

The City does not have legal authority to "refund" taxes already paid, unless that authority is exercised under statutory authority, such as NRP, or separately enacted home rule authority to provide incentives through rebates of City's share of property taxes. This payment was apparently not based upon either authority.

The City does have home rule authority to make economic development grants, and to the extent this payment can be characterized as an economic development grant, in an amount equal to delinquent property taxes, it could be authorized under the City's home rule authority.

6. Allocation of special assessments to Blk 12, Lot 31, Olivia Farms.

The allocation of special assessments within a 12-6a01 special benefit district is governed by 12-6a08.

12-6a08 Financing costs; assessment plan; classifications, formulae and methods of assessment.

(a) The portion of the cost of any improvement to be assessed against the property in the improvement district as determined in K.S.A. 12-6a04, and amendments thereto, shall be apportioned against the property in accordance with the special benefits accruing thereto by reasons of such improvement or in

accordance with the provisions of any petition submitted pursuant to subsection (b) or (c) of K.S.A. 12-6a04, and amendments thereto. The cost may be assessed equally per front foot or per square foot against all lots and pieces of land within such improvement district or assessed against such property according to the value of the lots and pieces of land therein as determined by the governing body of the city with or without regard to the buildings and improvements thereon or as set forth in the petition requesting such improvement or the cost may be determined and fixed on the basis of any other reasonable assessment plan which will result in imposing substantially equal burdens or shares of the cost upon property within the improvement district similarly benefited. The governing body may from time to time determine and establish by ordinance reasonable general classifications and formulae for the apportionment of the cost between the city and the area to be assessed, and the methods of assessing the special benefits, for various classes of i

(b) This section shall not be construed to limit the adoption of any assessment plan for any improvement that recognizes varying benefit levels to property within the improvement district and imposes assessments in relation thereto.

This lot was added to the second amended petition after the developer abandoned its plans to pursue RHID for Olivia Farms. It is included in the platted subdivision and zoned as multi family. City staff and advisors were in agreement that this parcel was benefited by the improvements and that it was appropriate to include it in the special benefit district. The developer's proposal to allocate 25% more of the costs to multi family lots because of higher density was also considered reasonable by City staff and advisors.

BKD noted in its investigative report the description of this property by some citizenry as a "waste land," and that if this land is determined to be too difficult to build on in the future, there is a risk that the property could be "abandoned" by the Developer.

This lot is within the platted subdivision and its zoned multifamily, so there is no legal impediment to its future development as multifamily.

Neither I, nor any City staff or advisors, are aware of any facts which would indicate that Lot 31, Blk 12 cannot be developed. The fact that it may be costly to develop this property, or more costly to develop this property than other sections of the subdivision, does not make the allocation of costs to this parcel illegal or improper.

The fact that a property owner may abandon a parcel, rather than pay the special assessments, is always a possibility in a special benefit district. The costs allocated to Lot 31 would have been allocated to other parcels in Olivia Farms, arguably increasing the likelihood that they would not be sold and improved.

The portion of the assessment allocated to Blk 12, Lot 31, was set forth in the amended petition, presented to the Governing Body, and approved by the Governing Body. This was done in accordance with 12-6a08.